GPN-J.332-ARCHB-8.94-1310500-ALA4 Spl-H.C.A.S.C.D.79e

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3358 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. S.S. Pakale for Petitioner.

Mr. R.D. Patil, A.G.P. for Respondent Nos. 1 to 3.

Mr. S.V. Marne for Respondent No.4.

Mr. S.J.Rairkar for Respondent No. 5.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 02, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioner is a Class IV employees employed with the school of which Respondent No. 6 is a Headmaster. That school was earlier under the jurisdiction of Zilla Parishad Pune. The area where the school is, has since been included in the area of Pune Municipal Corporation. The

schools in that area have since been transferred under the jurisdiction of the Pune Municipal Corporation. Affidavit has been field by Prakash Parab, Education Officer, Zilla Parishad, Pune. The Pune Municipal Corporation has not filed any affidavit but heir counsel submits that they were not having record and as such they were not in a position to file affidavit.

. The limited point which we have to consider is that admittedly the school was recognised school but not aided. It started receiving aid by way of part grant from 1997. The full grant was sanctioned from 23.10.2000. The Management had put a proposal contending that in terms of Rule 115(3)(b) they were entitled to receive the grants of one junior Clerk and one Class IV servant as they were having a strength of 500 or more students. The contention of the Zilla Parishad is that after sanction of 100% grant to the school restrictions were imposed for creation of the new posts by State Government on 8.1.2001 and therefore, the approval could not be granted for appointment of the petitioner. There is also objection raised that at the

time of appointment on 24.8.1993, the petitioner was aged only 17 years. Whereas the minimum requirement is of 18 years. That objection would no longer survive as the petitioner continues in service also in the year 1994 and thereafter and at least from 1994 onwards the appointment would be legal.

. The only issue therefore is whether the contention of the respondent Zilla Parishad that grants could not released in view of the restrictions imposed by the State Government is right. The selection of the post and release of grants are two distinct issues. IN the instant case, posts were already existing. The school was recognised. It was not receiving the grants. The Management put up proposal as per rule 115(3)(b). They were entitled to salary grants amongst others for one class IV employee. This will be in conformity with rule 115(3)(b). The objection therefore, raised on behalf of the Zilla Parishad is not sustainable. Once the school was entitled to receive full grant and on that date they had 500 or more students, they will be entitled to a Class IV employee. Considering the above in our

opinion respondent No. 5 to consider the proposal put by the management of Respondent No. 6 for release of salary grants of one class IV employee on the ground that they had 500 or more students at the time they had sought approval. The same representation will be disposed of within two months from today bearing in mind what is set out in the body of the judgment. Rule made absolute accordingly.

No order as to costs.

(F.I.REBELLO,J.)

(S.P.KUKDAY,J.)